

Part III - Administrative, Procedural, and Miscellaneous

Repayment of Commodity Credit Corporation Loans

Notice 2007-63

PURPOSE

This notice provides answers to frequently asked questions regarding the tax treatment of “market gain” associated with the repayment of Commodity Credit Corporation (CCC) loans under the nonrecourse marketing assistance loan program authorized under the Farm Security and Rural Investment Act of 2002, Pub. L. No. 107-171, 116 Stat. 134 (2002). Under §§ 1201-1204 of that Act, 7 U.S.C. §§ 7931-7934, as amended by § 763(b)-(c) of Division A of the Consolidated Appropriations Resolution, 2003, Pub. L. No. 108-7 (2003), the CCC provides nonrecourse marketing assistance loans for the 2002-2007 crops of certain commodities (the 2002 Act nonrecourse marketing assistance loan program). This notice provides answers for taxpayers that elect, and those that do not elect, to include the proceeds of CCC loans in income under § 77 of the Internal Revenue Code.

BACKGROUND

Under § 77 a taxpayer receiving amounts as loans from the CCC may elect to include those amounts in gross income for the taxable year in which received. Most individual taxpayers report the loan proceeds as a Commodity Credit Corporation loan on line 7a of Schedule F, *Profit or Loss from Farming*. A taxpayer that makes the

election under § 77 for any taxable year must compute income using that method for all subsequent years until the taxpayer receives the permission of the Internal Revenue Service to change to a different method of accounting. Rev. Proc. 2002-9, 2002-1 C.B. 327, provides procedures under which a taxpayer may obtain automatic consent of the Service to change the taxpayer's method of accounting for CCC loans from including the loan amount in gross income to treating the loan amount as a loan.

Under the 2002 Act nonrecourse marketing assistance loan program, CCC loans for each eligible commodity are made at a specified rate per unit of commodity (the original loan rate). The repayment amount for a loan secured by the pledge of an eligible commodity generally is based on the lower of the original loan rate or the alternative repayment rate, as determined by the CCC, for the commodity as of the date of repayment. The alternative repayment rate may be adjusted to reflect quality and location for each type of commodity. A taxpayer can use cash to repay a CCC loan, purchase CCC certificates for use in repayment of the loan, or deliver the pledged collateral as full payment for the loan at maturity. CCC certificates are available for purchase by producers that have outstanding commodity loans for which a crop is pledged as collateral.

If a taxpayer uses cash or CCC certificates to repay a CCC loan, and the loan is repaid when the alternative repayment rate is less than the original loan rate, the difference between the original loan amount and the lesser repayment amount is market gain. Regardless of whether a taxpayer repays a CCC loan in cash or uses CCC certificates in repayment of the loan, the market gain is taken into account either as

income (if the taxpayer has not made an election under § 77) or as an adjustment to the basis of the commodity (if the taxpayer has made an election under § 77).

QUESTIONS AND ANSWERS

The answers to the following questions apply whether a taxpayer repays a CCC loan with cash or uses CCC certificates in repayment of the loan.

Q-1. How does a taxpayer that has elected under § 77 to include the amount of CCC loans in gross income report market gain associated with the repayment of a CCC loan?

A-1. A taxpayer that has made an election under § 77 accounts for market gain for the year in which a CCC loan is repaid by making an adjustment to the basis of the commodity that secures the loan. The taxpayer's basis in the commodity before the repayment of the loan is equal to the amount of the loan previously reported as income. That basis is reduced by the amount of any market gain associated with the repayment of the loan. An individual taxpayer that has made a § 77 election should report the market gain as an Agricultural Program Payment on line 6a of Schedule F, but not as a taxable amount on line 6b, for the year in which the loan is repaid.

Q-2. How does a taxpayer that has not elected under § 77 to include the amount of CCC loans in gross income report market gain associated with the repayment of a CCC loan?

A-2. A taxpayer that has not made an election under § 77 reports market gain as income for the year in which a CCC loan is repaid. An individual taxpayer that has not made an election under § 77 should report the market gain as an Agricultural Program

Payment on line 6a and as a taxable amount on line 6b of Schedule F for the year in which the loan is repaid.

Q-3. Will the market gain associated with the repayment of a CCC loan be reported to a taxpayer whether the taxpayer repays a CCC loan with cash or uses CCC certificates in repayment of the loan?

A-3. Yes. For loans repaid on or after January 1, 2007, the CCC reports market gain associated with the repayment of a CCC loan whether the taxpayer repays the loan with cash or uses CCC certificates in repayment of the loan. The CCC reports the market gain on Form 1099-G, *Certain Government Payments*.

DRAFTING INFORMATION

The principal author of this notice is Marnette M. Myers of the Office of Associate Chief Counsel (Income Tax and Accounting). For further information regarding this notice (except Q&A-3), contact Ms. Myers at (202) 662-4920. For further information regarding Q&A-3 of this notice, contact Stephen J. Coleman of the Office of Associate Chief Counsel (Procedure and Administration) at (202) 622-4910 (not toll-free calls).